

Information regarding food, drugs, medicines and medical appliances may be found at 86 Ill. Adm. Code 130.310. (This is a GIL.)

September 28, 2005

Dear Xxxxx:

This letter is in response to your letter dated May 13, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a STATE based seller of pharmaceutical, medical food and dietary supplement products. Our medical food and dietary supplement product are sold via the internet and #800. Shipping and delivery operations are also based in STATE.

By FDA definition, medical food products fit a regulatory classification which is separate and distinct from both pharmaceuticals and dietary supplements. The FDA defines medical food products as food which is formulated to be consumed or administered entirely under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

We would like to request a written tax advice on Illinois Sales Tax Policy concerning medical food products. Are medical food products taxable under your State Sales Tax Policies? Please let us know as soon as possible so we can act properly with our customers in Illinois.

We greatly appreciate your help with this matter me at with any questions regarding our product in question.

DEPARTMENT'S RESPONSE:

For information regarding the taxation of food, drugs, medicines and medical appliances, please refer to the Department's regulations at 86 Ill. Adm. Code 130.310. These regulations may be found on the Department's internet website at the address shown below.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk